

PATENT LAWS—A CITIZEN OF PENNSYLVANIA—AMEND.

JUNE 26, 1834.

Read, and laid upon the table.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled :

The petition of a citizen of Pennsylvania,

HUMBLY SHOWETH :

That your petitioner was desirous of obtaining a patent right, and, therefore, examined the patent laws, and found them so defective that he deferred the application which he had in contemplation, for the purpose of praying your honorable bodies to revise the said laws, and make such amendments to them as the rights of the inventors and the honor and welfare of our country may, in your judgment, appear to require.

Believing that nothing but the multiplicity of important business, which it is the duty of Congress to transact, has diverted the attention of your honorable bodies from the obvious improvements of which these laws are susceptible, your petitioner begs leave respectfully to suggest, for your consideration, some of the alterations or additions which, in the opinion of your petitioner, even a small encouragement of ingenuity so justly demands.

It cannot be good policy in a State or nation to impose a tax on the exercise of ingenuity. Every possible facility in obtaining patent rights ought to be afforded to inventors, and all unnecessary expense and trouble in their acquisition, or uncertainty in their limits, ought, as far as practicable, to be removed. Inventors have difficulties enough to contend with, without the exaction of heavy fees. First, they must be at the labor and expense of trying experiments, without any absolute certainty of success. They must be at the cost of preparing and depositing a model and description, perhaps at a considerable distance from home; and, at present, they must pay about dollars cost, and also defray the expense of the necessary publications, before they can receive one cent of benefit; and, unless they can sell their patent rights, which they seldom can before their utility shall have been demonstrated and generally made known, they must incur the expense of making and vending their machinery, and, after all, they may struggle many years, perhaps, to overcome popular prejudice and interested or selfish opposition. Superadded to all this, is the difficulty, under the present provisions of the act, of guarding against the infringement of their rights. The public receive a large share of the benefit of inventions; and, if it would be too much to free the inventor from all expense in securing his rights, it would seem little enough to grant him an exemption for a certain number of years, or, indeed, until he shall have received, clear of all expenses, enough to

discharge the legal fees if any shall be required. The money payable into the office for a patent, with the cost of publication, may seem trifling to some, but even without other expenses incident to patent rights, it may be more than a poor man can raise, and even more than a man possessed of valuable property may find it convenient at all times to spare. The consequence is, that for lack of means inventions may be deferred, while others beyond the seas receive the profit, and our own country, by this unwise policy, is deprived, to a certain degree, of the honor and advantage. Hence, the means of protecting the rights of inventors ought to be equally accessible to all; but, if any partiality must be shown, it would appear cruel to deny to those who need it most, the benefit of their improvements. Hundreds of thousands, and, perhaps, millions of dollars have been given to those who had not the merit of inventing the improvements which they received the exclusive right to make, and who were seeking their own interest only; and it would be strange if nothing can be done for those who deserve more from the hands of the public, but who may be unable, without difficulty, to pay in advance the cost of securing the advantage of that knowledge which is peculiarly their own.

Your petitioner has made these few observations out of the many which might be suggested; and even these few, when presented to the collected wisdom of the nation, may appear superfluous.

For the reasons aforesaid, and others unmentioned, your petitioner prays your honorable bodies to pass an act requiring the keeper of the Patent Office to receive all models and descriptions of inventions offered at, or brought into the office by the inventor, his heirs or assigns, his or their agent or agents, and not previously patented; and to deposite, keep, or file them safely in the said office; and to cause all the necessary publications, and every other act and thing to be done, which may be deemed necessary or proper to secure a patent right to each inventor, without any fee or reward; taking, however, if any compensation be required, a bond from the patentee, conditioned for the payment of dollars, (not to exceed the least necessary expense,) with interest, at or before the end of seven or more years from the time of granting the patent. And your petitioner further prays that the act may declare that no patentee shall suffer by reason of any neglect of form or duty by the said keeper; and that the act of depositing or delivering at or in the said office a model and description of so much of any machine or invention as shall be deemed necessary, shall be sufficient to secure to the first inventor thereof, his heirs or assigns, a patent to the same and every part thereof; also, to every variety, whether in form, materials, or dimensions, which shall have been intelligibly described or expressed in the said inventor's description, without depositing or delivering a model for each variety. The propriety of such a provision will be evident when it is considered how difficult it would be for the inventor to make and deposite such a variety of models, and that the public may be equally benefited without them, if one principal model shall be deposited or delivered, together with such a description of any variety as will enable others to adopt it if they shall desire so to do. To allow others to rob an inventor of the fruits of his labor and ingenuity, by making some trifling alteration, would not be just, after such inventor had expressed, in his description, the manner in which such alteration might be made; neither would it be just to impose on the

inventor any more trouble or expense than shall be absolutely necessary to put the public in possession of the full knowledge of the invention and its varieties. It cannot be material how the public obtain their knowledge, or whether it be obtained from a perfect model and description or not, if they have information enough to enable them to derive the benefit of an invention ; and as some parts of some perfect models may hide other parts, and as it may, in some cases, be difficult to make models of the same kind of materials of which the invention or machine must be made, it will tend still more perhaps to ascertain rights and prevent wrongs, if the act shall comprise, but in a more proper method and style, the following provisions, to wit: That whenever the first inventor of any machine or invention, his heirs or assigns, or his or their agent, shall deliver at or in the said office a model of such parts thereof, and of such kinds of materials as shall, together with the description, be adequate to give sufficient information of such machine or invention, the said inventor, his heirs or assigns, shall have the right to the patent therefor according to law ; that as soon as the said first inventor's model shall be delivered as aforesaid, no other person except the said first inventor, his heirs or assigns, or his or their agent, shall ever be permitted to take out a patent for such invention or machine ; that the inventor, his heirs or assigns, his or their agent, may take out a patent at any time within ten years from the time of depositing a model at or in the said office, that descriptions shall or may be delivered as aforesaid, at any time before the time fixed by law for the publication thereof, provided that patent rights shall, in all cases, expire in fifteen years from the time of delivering a model at or in the said office ; that amendments of, or additions to, models and descriptions may be made and delivered at or in the said office at any time after patents have been granted, provided that such amendments and additions shall take effect from the time of their publication only, and shall have no effect after the patent for the invention which they are intended to aid in describing shall have expired ; that no person who shall make, erect, or use any machine or invention before a patent for it shall have been granted, or description of it published according to law, shall be liable to pay damages for so doing, if he shall cease to use it as soon as he shall be informed that a patent for it shall have been granted, or description of it published ; that whenever it shall have been clearly proven that the same machine or invention was discovered by two or more persons, so near the same time that the first inventor cannot be ascertained, that inventor whose model shall be delivered at or in the said office six months earlier than any other, shall be adjudged to be entitled to a patent for the same according to law ; that in all other cases, not in the act excepted, the first inventor shall be entitled to the patent ; that every inventor who shall have held the first patent for any machine or invention ten years before any other patent shall be granted for the same machine or invention, and before any suit or action shall be brought against him for using the same, shall be adjudged to have a lawful right to the interest in the said patent granted, provided that it shall not be lawful to grant a patent for any machine or invention which shall have been in common use five years before a model thereof shall be delivered at or in the said office, or an application for a patent shall be made ; and if any patent shall be issued or granted for any machine or invention which shall have been in common use for five years

as aforesaid, the same shall be null and void, any thing in the act to the contrary notwithstanding; that the said keeper shall, without fee or reward, receive all models and descriptions, amendments, and additions aforesaid, tendered to him, or delivered at or in the said office according to law; and shall keep or file the same therein, noting in the proper book the name, place of abode, and occupation of the person claiming to be the inventor, together with the time at which they shall be tendered or delivered, and the marks of distinction, and shall make in the said book an index, in alphabetical order, for the use of the public; and every person wishing to examine the said book shall be permitted to search for any information which it may contain; and the said keeper shall cause each of the said descriptions, which shall be received as aforesaid, to be published in one public paper at the seat of Government three times within six months from the time of issuing or granting the patent for the invention therein described, and shall request the editors of newspapers, who choose to give notice gratis, to state in their respective papers that a description has been published; and, in like manner, shall publish the said amendments and additions within six months after they shall have been respectively received. Your petitioner further prays your honorable bodies to consider whether it may not be proper to make it the duty of the keeper to draw or compose a description of any invention, after the model thereof shall have been delivered as aforesaid, if he shall be requested so to do by the inventor, his heirs or assigns, his or their agent; and, also, whether it may not be proper to allow authors to take out a copyright at any time within fifteen years from the first publication, so as to stop the further publication of any work by any person except the author, his heirs or assigns, or his or their agent, provided that the said copyright shall not extend beyond fifteen years from the time of the first publication.

As your petitioner cannot know whether his suggestions will be approved of or not, to avoid remark, he begs leave to add a certificate over the proper signatures of some of his fellow-citizens, in lieu of his own name, to show that he is a citizen, and that he really wishes for such an amendment of the said law as shall be best adapted for the purposes aforesaid.

A CITIZEN OF PENNSYLVANIA.

We, the undersigned, hereby certify that the author of the above-written petition is a citizen of Pennsylvania, and of the United States, and, we believe, well disposed toward the same, &c.

BENJAMIN WILLIAMS.
GEORGE WILLIAMS.